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**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Petition for
Termination of Probation of:**

ALFRED H. GRIMES, M.D.

**Physician's and Surgeon's
Certificate No. A-35511**

Respondent.

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File No. 02-1994-38807

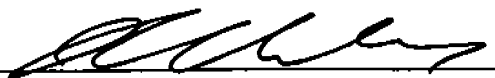
DECISION

**The attached Proposed Decision is hereby adopted as the Decision and Order of the
Division of Medical Quality of the Medical Board of California, Department of Consumer
Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on June 21, 2002.

IT IS SO ORDERED May 22, 2002.

MEDICAL BOARD OF CALIFORNIA

**By: 
Hazem H. Chehabi, M.D., Chair
Panel A
Division of Medical Quality**

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for Termination
of Probation of:

ALFRED H. GRIMES, M.D.
2642 Ulloa Street
San Francisco, CA 94116-2318

Physician and Surgeon's
Certificate No. A-35511

Petitioner.

Case No. 02-94-38807

OAH No. N 2002030273

PROPOSED DECISION

This matter was heard before Administrative Law Judge Jonathan Lew, State of California, Office of Administrative Hearings, on April 16, 2002, in Oakland, California.

The Attorney General of the State of California was represented by David Carr, Deputy Attorney General.

Alfred H. Grimes, M.D., appeared and was represented by Brock D. Phillips, Esq., Pacific West Law Group, LLP, 655 Redwood Highway, Suite 250, Mill Valley, California 94941.

The case was submitted for decision on April 16, 2002.

FACTUAL FINDINGS

1. On July 8, 1980, the Medical Board of California (Board) issued Physician and Surgeon's Certificate No. A-35511 to Alfred H. Grimes, M.D. (petitioner).

2. A Stipulated Settlement and Decision was adopted by the Board on December 4, 1996, by which petitioner's certificate was revoked, stayed, and placed on probation with terms and conditions for a period of five years. (*In the Matter of the Accusation Against: Alfred H. Grimes, M.D.*, File No. 02-94-38807.) The effective date of the Decision was January 6, 1997.

3. On October 25, 2001, petitioner filed a Petition for Penalty Relief seeking the early termination of his probation. At that time, the balance of probation remaining was three years, four months. This is because his probation was tolled for approximately three years between June 1997 and June 2000 when he left California to pursue a residency at Baylor University Medical Center in Dallas, Texas. Petitioner petitioned the Board for penalty relief upon his return to California and he had a hearing on September 20, 2000. It was determined that petitioner had yet to meet the minimum statutory period to petition for penalty relief and the petition was denied. However, the terms of probation were modified at that time to allow him to petition for termination of probation if all the terms and conditions of probation have been met and "if at least one year has elapsed from the effective date of this Decision and Order." The Decision's effective date was November 27, 2000.

4. The circumstances underlying discipline, as described in the Board's earlier decision, are that:

- a. On January 2, 1994, he was arrested for driving under the influence of alcohol and later convicted of reckless driving—alcohol related, in connection with that arrest. He was under the influence of alcohol at the time of the arrest and on that day and at that time, he was listed as being on-call at Barton Memorial Hospital where he practiced. His being under the influence on January 2, 1994, while being on-call at Barton Memorial Hospital was unprofessional conduct.
- b. On or about July 1994, in response to an inquiry from the executive committee of Barton Memorial Hospital where he practiced, petitioner understated the dosage of Labetelo given to a patient during surgery the previous month.

Petitioner acknowledges responsibility for the above, noting that the Board was "rightfully concerned for the safety of its mandated constituency and appropriately revoked my license with a subsequent stay with terms of probation."

5. In June 1994, petitioner was the anesthesiologist for a young man undergoing elective right shoulder surgery. The patient suffered cardiac arrest and died. There was an ensuing investigation that resulted in the suspension of his staff privileges at Barton Memorial Hospital, and the filing of an 805 report with the Board. Petitioner felt that because he had not been friendly with anesthesia peers over the years that he had

worked there, he lost their support. He sought reinstatement of hospital privileges but was denied by the hospital's board of governors. He hit bottom, drank heavily and acknowledges making some bad decisions, including being dishonest during the course of the hospital reinstatement hearing. He tried to sign up for Board Diversion but was told he could not since he was under investigation by the Board. He continued to drink.

6. On January 1, 1995, he prayed to God to stop drinking, finally realizing that he could not help himself. He woke up January 2 and has not had a drink since. He used, and continues to use, AA meetings as a foundation for recovery. He was permitted to enroll in the Nevada Diversion program in April or May 1995, attending two Diversion meetings per week in Reno in addition to his AA program. After nine months of being clean and sober, he entered a formal treatment program at Talbott Recovery Campus in Atlanta, Georgia. Petitioner stayed at Talbott four months from October 1995 to February 1996. He notes that prior to and after formal treatment he had random urine tests twice a month.

When he returned to California the Board permitted him to continue with the Nevada Diversion program. This involved two facilitated diversion meetings a week at a time when he was also attending up to five AA meetings per week.

7. Petitioner came to the realization that drinking was "not compatible with my sanity, safety, or the safety of my patients." He also made a fundamental decision to leave anesthesia practice and to pursue a new career direction in the specialty of Physical Medicine & Rehabilitation (PM&R). He concluded that anesthesia practice was too stressful and that he did not want that responsibility any more. He desires more patient contact and a more normal lifestyle.

In June 1997 he left California to pursue a residency at Baylor University Medical Center in PM&R. The chairman of the program had knowledge of his recovery status and the action taken by the Board. Petitioner enrolled in their impaired physicians program which required monthly meetings with a psychiatrist, twice monthly random urine tests and two to three AA meetings a week. He successfully completed the residency program in June 2000, and returned to California.

8. He applied to and was accepted into a prestigious fellowship position in pain management at the University of California San Francisco School of Medicine. He has since taken and passed board exams for both PM&R and pain management.

Petitioner believes that he has undergone a total change in lifestyle. He continues to attend three AA meetings per week, one diversion meeting and four random urine tests. He has maintained sobriety from January 1995.

9. Petitioner has complied with all probationary conditions including:
1) observing license suspension, 2) passing the ethics course, 3) passing the anesthesia

competency exam, 4) paying \$9,000 in cost recovery, 5) good standing with the California Diversion program, 6) remaining current with probation/diversion costs, 7) satisfying all educational requirements by passing the anesthesia exam and also obtaining board certification in PM&R, 8) remaining current with all worksite monitoring for both diversion and probation, 9) obeying all laws, 10) submitting timely quarterly reports to the Board, and 11) complying with the probation surveillance program.

Petitioner continues to maintain proficiency by reading medical journals in the areas of anesthesiology and PM&R. His residency at Baylor was particularly demanding and like returning to school. Despite the stress involved in completing the residency he avers that he did not relapsed and that that was as good a test of his response to pressure situations as any.

10. Pamela Pierce Palmer, M.D., is the Medical Director/Associate Professor with the UCSF/Mt. Zion Pain Management Center. Petitioner worked as a fellow at the Pain Management Center from September 2000. She is aware of his past history with alcohol and his probation and work in the diversion program. Dr. Palmer notes that he has been completely reliable and dependable in carrying out his responsibilities. His work as a fellow has been "exemplary" and they are aggressively attempting to hire him as an attending physician for the UCSF Department of Anesthesia to work full time in the Pain Management Center. From a social standpoint she has observed him at numerous social gatherings and notes that he completely abstains from alcoholic beverages. She understands that he has been clean and sober since 1995 and "we are all very supportive of his decision to remain so."

David J. Lee, M.D., is the Fellowship Director at the Pain Management Center. He has served as petitioner's worksite probation and diversion monitor since September 2000. He has met with petitioner weekly to randomly select and review patient charts. Based on such review, and also clinical observations, he believes that petitioner "has been consistently providing the safe standard of care in the subspecialty of pain management." Dr. Lee has neither observed nor been told of any incidence of alcohol use in work, professional or social settings. He notes that petitioner has since become a faculty at the Pain Management Center.

11. Barry S. Smith, M.D., is the Chairman and Residency Training Director, Department of Physical Medicine and Rehabilitation, Baylor University Medical Center. He confirms that petitioner completed a residency in PM&R at Baylor and that he was well aware of his condition and had spoken to his supervising physician before offering him the residency position. He notes that petitioner conducted himself in an exemplary manner throughout the entire period he was there. There were no instances of questionable behavior. He opines that petitioner's "quality of work and his overall behavior

and demeanor made me feel that I would strongly consider him for a faculty position at our institution if one became available in the future." He offers his highest recommendation for full reinstatement of petitioner's medical license.

12. Petitioner would like to terminate his probation for several reasons. He indicates that he has a job offer at Baylor University Medical Center and that he cannot apply for a Texas position while he remains on California probation. He also notes that he faces problems joining a managed care plan while on probation, and that it is more difficult to obtain malpractice insurance as a probationer. Although he has passed the pain management exam, the American Board of Anesthesiology is assessing his ongoing recovery program. He hopes that going off probation will facilitate issuance of the subspecialty certification in pain management.

LEGAL CONCLUSIONS

1. Under Business and Professions Code section 2307 a person who has been placed on probation may petition the Division of Medical Quality for modification of penalty, including termination of probation.

2. Good cause for termination of probation exists by reason of the matters set forth in Findings 6 through 12. Petitioner has demonstrated that he is rehabilitated and that he has the ability to practice medicine safely without physical or mental impairment and without risk to public health and safety. He has been clean and sober for seven years. During the three-year period that probation was tolled, petitioner was actively engaged in pursuing a residency in PM&R culminating in his certification as a Diplomate of the American Board of Physical Medicine and Rehabilitation. He returned to medical school to pursue a residency and the rigorous study of a new specialty. He then pursued a fellowship in pain management at UCSF School of Medicine. His work in both areas has been characterized as exemplary. These educational pursuits were prompted by his desire to leave the stresses of anesthesia practice, an important part of the rehabilitation plan that he had developed.

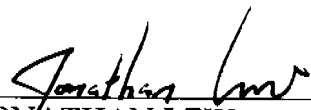
Over the entire period that he was in Texas he continued with his personal program of rehabilitation including enrollment in an impaired physician's program, monthly meetings with a psychiatrist, random urine testing and AA meetings. It is clear that he was serious about addressing his problems and that he made important strides towards his professional and personal rehabilitation over the three years that he was in Texas. Such must be considered in evaluating the degree to which he is rehabilitated, notwithstanding the three year tolling of his probation.

Petitioner has complied with all probationary terms and conditions.

ORDER

The Petition for Penalty Relief of Alfred Grimes, M.D., for early termination of probation is granted.

DATED: May 2, 2002



JONATHAN LEW
Administrative Law Judge
Office of Administrative Hearings